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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/253,117 02/19/99 KIRALY

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EXAMINER

WM01/0620

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SAN JOSE CA 95113

BROWN, R

ART UNIT

PAPER NUMBER

2611

DATE MAILED:

06/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/253,117

Applicant(s)
Kiraly

Examiner
Reuben M. Brown

Art Unit
2611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 5, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 11, 14 20) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-44 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding independent claims 1, 8, 15, 24 & 35, the instant claims recite the amended claimed feature of, "receiving and rendering concurrently" the broadcast information on first, second and third user devices. However, examiner does not find support in the specification for such a feature. Even though on page 11, lines 17-19, it is discussed that the "broadcast content can be of any nature or character that would be desired to be received by a number of users simultaneously", there is no positive disclosure that the present invention includes "receiving and rendering concurrently" broadcast information at first and second level receivers.

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Accordingly, claims 2-7, 9-14, 16-23, 25-34 & 36-44 are also rejected since they inherit the deficiencies of independent claims 1, 8, 15, 24 & 35.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-9, 13-19, 21-30, 32-40 & 42-44 are rejected under 35 U.S.C. 103(a) as being obvious over Fujita (US 5,948,070), in view of Boswell, (U.S. Pat # 5,559,933).

Considering claims 1, 15, 24 & 35, the instant claims are examined as best understood, in light of the above 112 rejection. Fujita discloses a file transfer systems and methods for **broadcasting** files to a plurality of receiving destinations comprising the steps of: causing a

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sending communication processing node A transmitting a first stream representing digital broadcast information to relaying communication processing node B wherein nodes A and B are coupled to WAN and LAN (Figs. 1 and 10); causing a sending communication processing node A to communicate a second stream representing broadcast information to a second relaying communication processing node C wherein node C is coupled to the WAN (Id.); causing the first relaying communication processing node B to communicate a third stream representing broadcast information to a receiving communication processing node E wherein node E is also coupled to the WAN (Id.); and relaying in reduced time the broadcast information to nodes B, C, and E, see Fujita (col. 6, lines 10-45; col. 8, lines 1-20)..

Regarding claims 1, 15, 24 & 35, the claimed connection to the Internet is broad enough to read on the Wide Area Network (WAN) as illustrated by Fujita, since the Internet is also a communications network that connects geographically separated areas.

With respect to the amended claimed feature of receiving and rendering the broadcast information in a first user device as well as the second or third user device to which the first user device transmits or relays the instant broadcast information, Fujita does not explicitly disclose such a feature. Nevertheless, one of ordinary skill in the art at the time the invention was made would have been motivated to enable reception and display of relayed files with as little delay as possible, at least for the known desirable benefit of providing users with real-time viewing. To

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that end, Boswell provides a teaching of various file transferring protocols over the Internet, (col. 2, lines 41-65). In particular, it is disclosed that the receiver may be configured to have simultaneous transmission and reception of files, see col. 18, lines 55-59. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Fujita with the teachings of Boswell, providing simultaneous reception and transmission of data files, at least for the desirable improvement of delivering the relayed data files to their destination with as little delay as possible.

As for claim 35, the instant claim includes the limitation that the server is configured by a transmission scheduler to communicate the digital streams to the first & second devices and that the scheduler maintains communication links between the sever and first, second & third user devices. Accordingly, examiner points out that Fujita discloses that the main sending node A, includes a File destination sorting means 2 and Relay information table 5, which read on the operation of the claimed transmission scheduler, of the instant claim, (Fig. 2; Fig. 3; col. 6, lines 48-68).

Regarding claims 2-4, 16-19, 27-30 & 37-40, Fujita teaches a system and a method of transferring, communicating and **broadcasting** "files", but does not disclose the specific types or content of the files. Nevertheless, at the time the invention was made, transferring and

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broadcasting radio, audio, visual television and computer program files over a communications network was very well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fujita to broadcast radio, audio, visual, television and computer files so that a user may access audio/video and program data in order to have a full interactive entertainment system.

Regarding claims 6, 21-23, 32-34 & 42-44, Fujita shows the step of having receiving communication nodes H and I coupled to the WAN and causing relaying communication node D to communicate a stream of broadcast information to nodes H and I (Fig. 1). Therefore Fujita anticipates adding any number of relaying nodes which, will receive broadcast information and transmit the instant received broadcast information on to a receiving destination.

Regarding claim 7, Fujita also reveals a method wherein sending communication processing node 100 transferring broadcast files to a plurality of user nodes 200, 201, and 202 (Fig. 10).

Concerning claim 8, Fujita shows a method of broadcasting files over a network of electronic devices comprising the steps of: sending broadcast information from a sending means 100 to a first group of electronic devices on the network; and achieving reduced time

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broadcasting of the files for the first group and the second group of electronic devices for relaying the broadcast files from the first group to the second group. Furthermore, Fujita explicitly teaches that the purpose of the present relaying system, is to allow the efficient (i.e **timely**, emphasis added) broadcasting of a file without increasing the load on the communications system, even though the number of receiving destinations increases, (col. 1, lines 60-67). Since by definition a transmitter which broadcasts information, as is disclosed in Fujita (col. 1, lines 8-13), would necessarily desire at least nearly simultaneous reception of the instant transmitted information to the designate destinations, thus the examiner contends that the invention of Fujita at least contemplates concurrently receiving and rendering files at an originating location, as well as a relay destination. However, the amended claimed feature of, "receiving and rendering concurrently", which corresponds with subject matter mentioned above in the analysis of claim 1 is likewise rejected.

Regarding claim 9, Fujita teaches direct communication links between the first group of electronic devices and the second group of electronic devices (claims 1 and 2).

Regarding claim 13, Fujita discloses a first and second set of electronic devices each comprising a computer system configured for receiving and relaying broadcast information (Fig. 1).

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Regarding claim 14, the claimed connection to the Internet is broad enough to read on the Wide Area Network (WAN) as illustrated by Fujita, since the Internet is also a communications network that connects geographically separated areas.

Considering claims 25-26 & 36, Fujita discloses the utilization of a File destination sorting means 2 and a Relay information table 5, (Fig. 2; col. 6, lines 48-67) which reads on the subject matter of the instant claims.

5. Claims 5, 10-12, 20, 31 & 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita & Boswell, in view of Nederlof, (U.S. pat # 5,590,118).

Considering claims 5, 11, 20, 31 & 41, Fujita reveals relaying communication nodes B, C, D, and G wherein these nodes are capable of receiving files and further relaying and communicating broadcast files to a plurality of users (Fig. 1). Even though Fujita provides relaying communication nodes capable of relaying to a plurality of user nodes, Fujita does not discuss the circumstances of a failure of one of the nodes in the system. Nevertheless, at the time the invention was made, alternate path routing of data was well known in the art and is disclosed by Nederlof (Abstract; col. 3, lines 25-35). Thus, it would have been obvious to one skilled in the arts to modify Fujita to re-route scheduled relay broadcast files to user nodes, from a

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different node, if the designated relaying communication nodes shuts down , for the desirable improvement of a more reliable and reconfigurable communications network, as taught by Nederlof (col. 9, lines 32-38), thereby providing for a back-up system.

Considering claim 10, the step of periodically updating the status of nodes in a communication system is necessarily included in Nederlof, since the systems detects failed nodes and re-routes information in such cases, (col. 9, lines 32-41).

Considering claims 12, the claimed step of terminating communications links to inactive electronic devices or nodes, reads on the re-routing of data through a different communication path as taught by Nederlof. Moreover, it would have been obvious for one of ordinary skill in the art at the time the invention was made, to refrain from sending data to an inactive node, at least for the desirable benefit of conserving bandwidth.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 8, 15, 24 & 35 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Morgan Teaches a configuration for enabling fast reception/transmission of files, by utilizing input/output buffers for uploading and downloading of data files, see Fig. 6.

B) Doerr Teaches relaying of files from an intermediate location to other destinations, see Fig. 5.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:


(703) 872-9314, (for formal communications; please mark "EXPEDITED
PROCEDURE", for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner
should be directed to Reuben Brown whose telephone number is (703) 305-2399. The examiner
can normally be reached on M-Th from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,
Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the Group receptionist whose telephone number is (703) 305-4700.


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600